101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

101 CMR 313.00: RATES FOR FREESTANDING CLINICS PROVIDING ABORTION AND STERILIZATION SERVICES

Section

313.01: General Provisions

(1) Scope, Purpose and Effective Date. 101 CMR 313.00 governs the rates of payment used by governmental units to pay eligible providers for abortion and sterilization services provided to publicly aided individuals. Rates under 101 CMR 313.00 are effective for dates of service on and after February 21, 2020, unless otherwise indicated.

(2) Coverage. 101 CMR 313.00 and the rates of payment contained in 101 CMR 313.00 apply to abortion and sterilization services rendered by eligible providers in an ambulatory clinic setting. The rates of payment under 101 CMR 313.00 are full compensation for all services rendered.

(3) Disclaimer of Authorization of Services. 101 CMR 313.00 is neither authorization for nor approval of the substantive services for which rates are determined pursuant to 101 CMR 313.00. Governmental units that purchase services from eligible providers are responsible for the definition, authorization, coverage policies, and approval of the care and services extended to publicly aided individuals.

(4) Coding Updates and Corrections. EOHHS may publish procedure code updates and corrections in the form of an Administrative Bulletin. Updates may reference coding systems, including but not limited to, the American Medical Association's *Current Procedural Terminology* (CPT) and/or the Healthcare Common Procedure Coding System (HCPCS). The publication of such updates and corrections will list:

(a) codes for which the code numbers change, with the corresponding cross reference between new codes and the codes being replaced. Rates for such new codes are set at the rate of the code that is being replaced;
(b) deleted codes for which there is no corresponding new code; and
(c) codes for entirely new services that require pricing. EOHHS will list these codes and apply individual consideration (I.C.) reimbursement for these codes until appropriate rates can be developed.

(5) Administrative Bulletins. EOHHS may issue administrative bulletins to add, delete, or otherwise update codes or modifiers, to clarify its policy on and understanding of substantive provisions of 101 CMR 313.00, and as otherwise specified in 101 CMR 313.00.

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313.02: General Definitions

Ambulatory Abortion or Sterilization Clinic. A state-licensed freestanding ambulatory clinic that provides abortion or sterilization services and which is in compliance with applicable clinic licensure rules and regulations.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Eligible Provider. State-licensed freestanding ambulatory abortion or sterilization clinics providing abortion and/or sterilization services which meet such conditions of participation as may be required by a governmental unit purchasing such services.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Established Patient. A patient who has received professional services from the provider within the past three years.

Governmental Unit. The Commonwealth, any department, agency, board or commission of the Commonwealth and any political subdivision of the Commonwealth.

Individual Consideration (I.C.).For specified drugs and injectables listed in 101 CMR 313.03(5) with I.C., payment will be at cost, subject to any documentation requirements of the governmental unit.

Modifier. Listed services and procedures may be modified under certain circumstances. When applicable, the modifying circumstances must be identified by the addition of the appropriate two letter or numeric designation.

Publicly Aided Individual. A person for whose medical and other services a governmental unit is in whole or in part liable under a statutory program.

313.03: General Rate Provisions

(1) Rate Determination. Rates of payment for eligible providers of abortion and sterilization services shall be the lowest of

(a) the eligible provider's usual fee to the general public;
(b) the eligible provider’s actual charge submitted; and
(c) the allowable fees set forth in 101 CMR 313.03(5).

(2) Abortion Services. The rates for an induced abortion, physician and clinic services shall include preoperative evaluation and counseling, laboratory services, surgery, anesthesia and postoperative care due to complications. The post-abortion visit rate shall constitute full compensation for routine follow-up care for abortion patients who return for such care.

(3) Sterilization Services. The rates of payment for Sterilization Services represent full compensation for these services, which shall include preoperative evaluation and counseling, laboratory services, surgery, anesthesia and postoperative care.

(4) Modifiers.

(a) Modifier –51 Pertains to Multiple Procedures. This modifier must be used to report multiple procedures performed at the same session. The service code for the major procedure or service must be reported without a modifier. The secondary, additional or lesser procedure(s) must be identified by adding the modifier –51 to the end of the service code for the secondary procedure(s). The addition of the modifier '51' to the second and subsequent procedure codes allows 50% of the allowable fee contained in 101 CMR 313.03(5) to be paid to the eligible provider.

(b) Modifier – TF – Intermediate Level of Care. Use with procedure codes 59840, 59841, or S2260, if applicable, in accordance with the fee schedules set forth in 101 CMR 313.03(5).

(c) Modifier – TG – Complex/High Tech Level of Care. Use with procedure codes 59840, 59841, or S2260, if applicable, in accordance with the fee schedules set forth in 101 CMR 313.03(5).

(d) Modifiers for Provider Preventable Conditions. Below are modifiers for reporting "provider preventable conditions" that are National Coverage Determinations, in accordance with 42 C.F.R. 447.26.

Modifier Name	Description
PA	Surgical or other invasive procedure on wrong body part
PB	Surgical or other invasive procedure on wrong patient
PC	Wrong surgery or other invasive procedure on patient

(5) Maximum Allowable Rates.

Code	Modifier	Allowable Fee	Description
55250		$534.95	Vasectomy, unilateral or bilateral (separate procedure), including postoperative semen examination(s)
58600		$829.94	Ligation or transection of fallopian tube(s), abdominal or vaginal approach, unilateral or bilateral approach
58670		$773.99	Laparoscopy, surgical, with fulguration of oviducts (with or without transection)
58671		$815.41	Laparoscopy, surgical; with occlusion of oviducts by device (e.g. band, clip or Falope ring)
59820		$431.57	Treatment of missed abortion, completed surgically-first trimester (includes physician's charges and clinic services)
59840		$394.17	Induced abortion, by dilation and curettage (includes physician's charges and clinic services with either I.V. sedation or general anesthesia)
59840	-TF	$535.88	Induced abortion, by dilation and curettage (includes physician's charges and clinic services with either I.V. sedation or general anesthesia)
59840	-TG	$755.83	Induced abortion, by dilation and curettage (includes physician's charges and clinic services with either I.V. sedation or general anesthesia)
59841		$433.95	Induced abortion, by dilation and evacuation - (includes physician's charges and clinic services)

Code	Modifier	Allowable Fee	Description
59841	-TF	$589.97	Induced abortion, by dilation and evacuation - (includes physician's charges and clinic services)
59841	-TG	$832.13	Induced abortion, by dilation and evacuation - (includes physician's charges and clinic services)
J2790		I.C.	Injection, RHO (D) immune globulin, human, one dose package (when required only, reimbursed at the actual wholesale cost of the serum. A copy of the purchase invoice must be submitted with the claim form)
S0199		$410.26	Medically induced abortion by oral ingestion of medication including all associated services and supplies (e.g. patient counseling, office visits confirmation of pregnancy by Hcg, Ultrasound to confirm duration of pregnancy, ultrasound to confirm completion of abortion) except drugs
S0190		I.C.	Mifepristone, Oral, 200MG
S0191		I.C.	Misoprostol, Oral, 200MCG
S2260		$747.11	Induced abortion, 17 to 24 weeks (includes physician's charges and clinic services)
S2260	-TF	$1,016.07	Induced abortion, 17 to 24 weeks (includes physician's charges and clinic services)
S2260	-TG	$1,434.45	Induced abortion, 17 to 24 weeks (includes physician's charges and clinic services)

(6) Services and Payments Covered Under Other Regulations. The rates of payment for other abortion and sterilization services not listed in 101 CMR 313.03(5) that are authorized by the purchasing governmental unit, will be based on the applicable EOHHS regulation, such as 101 CMR 312.00: *Family Planning Services*; 101 CMR 316.00: *Surgery and Anesthesia*; 101 CMR 317.00: *Medicine*; and 101 CMR 318.00: *Radiology*.

The rates of payment for the following procedures shall be based upon 101 CMR 312.00: *Family Planning Services.*

Code	Description
99211	Office or other outpatient visit for the evaluation and management of an established patient that may not require the presence of a physician. Usually, the presenting problem(s) are minimal. Typically, 5 minutes are spent performing or supervising these services. (Post abortion check-up visit) (routine follow-up care only)

Code	Description
99213	Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: - an expanded problem focused history; - an expanded problem focused examination; - medical decision making of low complexity. Counseling and coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 15 minutes face-to-face with the patient and/or family. (Post abortion check-up visit) (routine follow-up care only)
99215	Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: - a comprehensive history; - a comprehensive examination; - medical decision making of high complexity. Counseling and/or coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 40 minutes face-to-face with the patient and/or family. (Post abortion check-up visit) (routine follow-up care only)

The rates of payment for the following procedures shall be based upon 101 CMR 316.00: *Surgery and Anesthesia*.

Code	Description
58120	Dilation and curettage, diagnostic and/or therapeutic (nonobstetrical)
58565	Hysteroscopy, surgical; with bilateral fallopian tube cannulation to induce occlusion by placement of permanent implants
59200	Insertion of cervical dilator (eg, luminaria, prostaglandin) (separate procedure)
59812	Treatment of incomplete abortion, any trimester
59821	Treatment of missed abortion, completed surgically; 2nd trimester
59870	Uterine evacuation and curettage for hydatidiform mole

The rates of payment for the following procedures shall be based upon 101 CMR 317.00: *Medicine.*

Code	Description
90385	Rho (D) immune globulin (RhIg), human, mini-dose for intramuscular use

The rates of payment for the following procedures shall be based upon 101 CMR 318.00: *Radiology*.

Code	Description
76805	Ultrasound, pregnant uterus, real time with image documentation, fetal and maternal evaluation, after first trimester (>or = 14 weeks 0 days), transabdominal approach; single or first gestation

Code	Description
76815	Ultrasound, pregnant uterus, real time with image documentation, limited (*e.g.*, fetal heart beat, placental location, fetal position and/or qualitative amniotic fluid volume), one or more fetuses

313.04 Reporting Requirements

(1) Required Reports. Reporting requirements are governed by 957 CMR 6.00: *Cost Reporting Requirements.*

(2) Penalty for Noncompliance. A purchasing governmental unit may impose a penalty in the amount up to 15% of its payments to any provider that fails to submit required information. The purchasing governmental unit will notify the provider in advance of its intention to impose a penalty under 101 CMR 313.04(2).

313.05: Severability

The provisions of 101 CMR 313.00 are hereby declared to be severable and if any such provisions or the application of such provisions to any person or circumstances shall be held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions to eligible providers or circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 313.00: M.G.L. c.118E.